

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	No. 18-72951
Petitioner	:	
v.	:	Board Case Nos.:
	:	28-CA-200369 et al.
UNITED STATES POSTAL SERVICE	:	
	:	
Respondent	:	

MOTION TO DISMISS THE BOARD’S APPLICATION FOR ENFORCEMENT
OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD UPON
STIPULATION OF THE PARTIES FOR CONSENT JUDGMENT

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth Circuit:

Pursuant to Federal Rule of Appellate Procedure 42(b), the National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, respectfully moves to dismiss the Board’s application for enforcement in the above-captioned case, and shows:

1. The Board’s application for summary entry of a judgment enforcing its order issued against the United States Postal Service in this case was docketed on October 31, 2018, No. 18-72951.

2. As stated in Section A of the Board’s application for enforcement, the activities giving rise to this proceeding occurred in New Mexico. Consequently, the proper venue for this action is the Tenth Circuit. Accordingly, the Board seeks

to withdraw its application so that it may properly file this matter in the Tenth Circuit.

3. Opposing counsel, Dallas Kingsbury, has been contacted and does not object to this motion to dismiss.

WHEREFORE, the Board requests that the Clerk enter an order dismissing without prejudice the above captioned case, each side to bear its own costs.

/s/ Linda Dreeben

Linda Dreeben

Deputy Associate General Counsel

National Labor Relations Board

1015 Half Street, S.E.

Washington, D.C. 20570

Dated in Washington, D.C.
this 8th day of November, 2018

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CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2018, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I further certify that the foregoing document has this day been served by first class mail upon the following parties at the address listed below:

Dallas G. Kingsbury Esq.
United States Postal Service
Law Department - NLRB Unit
1720 Market Street, Room 2400
St. Louis, MO 63155-9948

Roderick D. Eves, Esq.
United States Postal Service
Law Dept. - NLRB Unit
1720 Market Street Rm 2400
Saint Louis, MO 63155-9948

/s/ Linda Dreeben

Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, S.E.
Washington, D.C. 20570
(202) 273-2960

Dated at Washington, D.C.
this 8th day of November, 2018

UNITED STATES COURT OF APPEALS
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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 27(d)(2)(A), the Board certifies that its motion to dismiss contains 178 words of proportionally-spaced, 14-point type, and the word processing system used was Microsoft Word 2010. This document also complies with the typeface requirements of FRAP 32(a)(5) and the type-style requirements of FRAP 32(a)(6).

/s/ Linda Dreeben
 Linda Dreeben
 Deputy Associate General Counsel
 National Labor Relations Board
 1015 Half Street, S.E.
 Washington, D.C. 20570

Dated in Washington, D.C.
this 8th day of November, 2018



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

November 8, 2018

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *NLRB v. United States Postal Service*,
Docket No. 18-72951

Dear Clerk:

On October 31, 2018, the Court docketed as No. 18-72951 the Board's application for entry of a judgment enforcing its order in the subject case. The activities which gave rise to this case occurred in New Mexico. As a result, the proper venue for this case should have been the Tenth Circuit. Enclosed is a motion to dismiss the Board's application for enforcement of its order.

Very truly yours,

/s/ Linda Dreeben

Linda Dreeben
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